



FARMERS & THE LAW

Alberta

AGRICULTURE
Farmers Advocate

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Weed Control and Field Services Branch

Alberta Consumer and Corporate Affairs: Real Estate Program

Alberta Environment: Pollution Control

Alberta Treasury: Revenue Administration

Alberta Transportation: Motor Vehicle Branch
Motor Transport Branch
Transportation Safety Branch

Alberta Solicitor General: Law Enforcement Division

RCMP

SPECIAL NOTE

The contents of this booklet are excerpts from various statutes, by-laws and regulations as they may apply to farmers and ranchers. This publication is intended to provide information only and is not to replace any of the noted statutes or by-laws, nor to offer legal interpretation of same. Anyone wishing further information is advised to consult the specific statute or by-law and to entertain legal counsel.

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FUEL OIL ADMINISTRATION ACT - PURPLE FUEL

If you are a farmer in Alberta, you are eligible for a discount on every litre of purple gas, diesel fuel and domestic heating fuel, provided its purpose is for use in farm equipment used in your farming operations. The Alberta Fuel Distribution Allowance (AFFDA) reduces the cost of marked gasoline and diesel fuel used for farm vehicles and equipment by seven cents (\$.07) per litre. Fuel cost is reduced "at the pump" by your bulk dealer deducting the allowance from your purchase price. You will see this reduction clearly identified on every marked fuel invoice received from your bulk agent.

The only paper work you must file with your bulk dealer is a declaration stating you actively carry on farming operations in Alberta and that the marked "purple" gas and diesel fuel you buy is used only for farming purposes.

The AFFDA program is administered by the Revenue Administration Division, Alberta Treasury, which works in co-operation with oil companies and bulk dealers in the province. The bulk dealers deduct the allowance from the price of your purchases of marked fuel then are repaid that amount by the oil companies they represent. The oil companies in turn are reimbursed by the Alberta government.

RESTRICTIONS ON USE OF PURPLE FUEL

Marked "purple" fuel cannot be used for any purpose other than farming operations in Alberta or for heating dwellings. It is an offence for a person to be in possession of marked fuel for any other purpose.

Use of marked fuel is not permitted in licensed vehicles except for trucks bearing farm category licence plates and only when in conjunction with the farming operation. Marked fuel may not be used in any other type of business operation carried on by the farmer.

For further information regarding the use of marked "purple" fuel please contact Alberta Treasury, Revenue Administration at 427-3044.

FARM IMPLEMENT ACT

All farmers in Alberta who purchase new equipment are covered by the Farm Implement Act.

The Act covers new farm equipment which has a retail sales price of \$1,000 or more and is intended for use in your farming operation. The Act can be used for your protection should a contravention of the Act occur.

Warranties

The Farm Implement Act states: "The warranty is deemed to apply for a reasonable period of time not to be less than one year from the date that the farm implement is first used in the first normal season of use by the purchaser." This means you are covered under warranty commencing not at the time you sign the contract, but at the time that an installation or piece of equipment is fully completed and is first used.

Warranty provisions require that new farm implements and equipment be made of good material, properly constructed both as to design and workmanship and in good working order. However, the warranty is subject to **reasonable** operating conditions with proper use and maintenance to ensure reasonable durability. A 90-day parts warranty is provided for as well.

Contracts

Under the Act, you must have signed a contract covering your new equipment or installation. All warranties as well as a complete description of the implement or components, **serial numbers and model numbers, must be included.**

If the contract relates to more than one farm implement, it should show the purchase price for each implement and attachment. All motors and engines should state the horsepower they develop. A person who signs an agreement to purchase farm implements is not bound by that agreement until the agreement is signed by the dealer or an authorized representative of the dealer; or when the purchaser has taken delivery of the machine under an agreement, whichever occurs first.

FOR INFORMATION PURPOSES ONLY

Repairs and Parts

Repair parts from the dealer shall be made available to the purchaser within a reasonable period of time after a request for them is made through the distributor. The distributor is not responsible for any delay in delivering a required part, if that delay is due to circumstances beyond his control. The distributor is also required to ensure a 10-year parts supply.

Performance

If a new farm implement, which is properly maintained and used under reasonable operating conditions, fails to satisfactorily perform the work for which it was intended during the first 10 actual days or the first 100 actual hours, whichever comes first, the purchaser may, within a reasonable period of time, give notice perferably by registered mail to the distributor, the dealer and the minister of agriculture, of failure to perform. The dealer or distributor shall endeavor to make the implement perform in a satisfactory manner within seven days after receiving notice. Reasonable operating conditions must exist and if the dealer or distributor cannot make the unit operate, he must then supply a satisfactory replacement within 48 hours.

Licensing

All dealers and distributors who sell equipment within the province of Alberta are required to be licenced and bonded under the Act. We would suggest before you purchase new equipment, you ensure that your dealer is licenced and bonded under the Act.

The Farm Implement Act is administered by the administrator of the Farm Implement Act. Contact 427-2188 in Edmonton or 556-8421 in Olds.

MOTOR VEHICLE ADMINISTRATION ACT

Where a newly acquired vehicle is being operated with licence plates issued to another vehicle which is being disposed of, the operator must be able to produce proof that the vehicle was acquired within the last 14 days (usually by means of the bill of sale). He must also be able to produce the registration certificate as well as a valid financial responsibility card for the previous vehicle. If he does so a peace officer shall give him sufficient time to arrange to obtain a registration and financial responsibility card for a newly acquired vehicle. A person who operates or even parks an uninsured motor vehicle is guilty of an offence. Registration papers must also be obtained within 14 days of the date of purchase of a new vehicle. A wise practice is to notify your insurance company by phone immediately upon the purchase of a newly acquired vehicle.

LICENCING OF TRAILERS

Trailers must be registered and licenced either as public vehicles, commercial vehicles or with trailer identification plates depending on how and by whom they are used. A trailer used solely for farming operations requires only a trailer identification licence plate except for the following which do not require a licence:

- a) trailers used by farmers solely for their farming operations, but not for the purpose of conveying goods or commodities to or from any market.
- b) any towed farm implement either used or intended to be used for the prime purpose of conveying goods, merchandise or materials.
- c) dollies used for the moving of buildings.
- d) trailers with permanently mounted machinery or equipment which is neither used or intended to be used for the prime purpose of transporting goods, merchandise or materials including air compressors, welders, tar buckets, concrete mixers and other similar material.

Farm tractors under certain conditions of operation can be classified as motor vehicles and as such are subject to licensing and coverage by public liability and property damage insurance. To protect yourself when using a farm tractor other than to tow an implement of husbandry or an exempted vehicle listed above, contact your nearest Motor Vehicle Division regional office for information.

FOR INFORMATION PURPOSES ONLY

OPERATOR LICENCE CLASSIFICATION

There are at present seven classes of Alberta operator's licence, each of which allows the operation of different sizes of vehicles. Before operating any newly acquired equipment which may be different in size or operating characteristics or undertaking to drive some other kind of equipment for someone else, it is the responsibility of each person to make sure his licence classification is adequate and allows him to legally operate the vehicle in question. Licence classification and their uses are clearly listed in the Alberta Driver's Handbook available from any drivers' examination office in the province. Driver examiners will gladly assist anyone who has concerns as to what class of licence is necessary and to explain how he can arrange to obtain an added classification when necessary.

TRAILERS - BRAKES

All trailers and semi-trailers require brakes applied from the cab of the towing vehicle adequate to control, hold or stop the vehicle under all conditions. The following exemptions from this requirement are allowed:

1. Trailers with a maximum gross weight of 2,300 kg (5,068 lb) or less providing that the towing unit has a weight of at least twice that of the loaded trailer.
2. Farm trailers with a maximum gross weight of 3,650 kg (8,050 lb) or less while being towed empty or at a speed of 25 km / h (15.5 mph) or less when loaded.

For further information please contact Transportation Safety at 427-7910.

DIMENSIONS OF VEHICLES

Maximum allowable vehicle dimensions are as follows:

Width:

- a) 2.6 m (8'6")
- b) 3.05 m (10') for all mobile homes or other structures.
- c) Implements of husbandry are exempt except at night when clearance lights must be displayed at the extreme edge of the vehicle or load.
- d) 15 cm (6") is allowed beyond each side of the vehicle or load for rear view mirrors. Note: Implements of husbandry are defined as vehicles designed and adapted exclusively for agriculture but do not include brush cutters, brush rakes or dozers.

Height:

- a) 4.15 m (13'6") providing clearance is sufficient under bridge structures, power and telephone lines.

Length:

- a) single vehicles 12.5 m (41')
- b) truck and trailer 21.5 m (70'6")
- c) semi-trailer units 20 m (65'6")

Permits:

These may be obtained for loads which exceed legal dimensions which include the following:

- a) baled hay and straw
- b) dozer blades
- c) grain bins
- d) implements of husbandry

Vehicle Weight

Allowable vehicle weights are dependent on vehicle tire size and the corresponding tire capacity and axle load. The maximum allowable axle weights for a single axle with dual 10:00 x 20 is 9,100 kg (20,062 lb). For a tandem axle with dual 10:00 x 20 tires the maximum allowable weight is 16,000 kg (35,273 lb.).

Road Bans

Legal axle loads are 100 per cent axle loading. When road bans are required they are expressed as a percentage of legal axle loading for example 90 per cent, 75 per cent and 50 per cent. A 75 per cent road ban means that the weight of the axle including both the weight of the truck and its load cannot exceed 75 per cent of the weight of the axle of 100 per cent loading. For example a 90 per cent road ban means that the weight of a single axle with 10" dual tires cannot exceed 90 per cent of 9,100 kg or 8,190 kg (18,055 lb).

The steering axle is not affected by road bans and hence can operate at 100 per cent axle loadings during road bans. During the frozen road period from early December to spring thaw, 110 per cent of legal axle loadings are allowed to encourage hauling in the winter months. This means axle loadings can go up to 110 per cent of the normal allowable axle. For further information please contact a Vehicle Inspection Station or Overload Control, Red Deer at 343-5139.

SECURE LOADS

When the load of a vehicle consists of loose material or of material liable to shift, slip, blow off or fall off while being conveyed, it should be placed on the vehicle inside a container or otherwise so placed to prevent it from falling off the vehicle.

OFF-HIGHWAY VEHICLE ACT

Any off-highway vehicle means any motorized vehicle designed for cross-country travel on land, water, snow, ice, marsh or swamp land or on other natural terrain and without limiting the kinds of vehicles in this class includes the following vehicles designed for off-highway travel.

1. 4-wheel drive or low pressure tire vehicles.
2. motorcycles and related 2-wheel vehicles.
3. amphibious machines.
4. all-terrain vehicles.
5. miniature motor vehicles.
6. snow vehicles.
7. mini-bikes.

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8. any other means of transportation which is propelled by any power other than muscular power or wind but does not include:
9. motorboats or
10. any vehicle exempted from all the provisions of this Act by the Regulation.

No one is entitled to use an off-highway vehicle on public land that is not a registered, licenced or insured off-highway vehicle. If a person operates a private vehicle on his own private land or the property owned by some other person who has consented to the use of his land for the operation of the off-highway vehicle then the off-highway vehicle is not required to be registered, licenced or insured. The operator of an off-highway vehicle may cross any highway as may be required provided before doing so the operator insures that: he stops the vehicle, that all passengers disembark from the vehicle or anything attached to it before it starts across, that the operator yields the right of way to every other vehicle on the highway and crosses by the shortest and most direct route possible. Under special circumstances a municipality may pass a by-law permitting the operation of off-highway vehicles on highways within the municipality's control, or the Minister of Transportation may allow the operation on a portion of a particular highway under special permit for some special event. Anyone who operates an off-highway vehicle on a highway where a special by-law or permit is in effect would have to have it licenced or insured to operate legally. No person under 14 years of age shall operate an off-highway vehicle unless he is supervised by an adult person seated next to him on the off-highway vehicle or close enough to him to give instruction. No teaching or instruction should be carried out while the off-highway vehicle is legally being operated on or while crossing a highway.

MOVEMENT OF FERTILIZERS

Regulations governing the movement of fertilizers under the Motor Transport Act are set out in the "Transportation of Anhydrous Ammonia and Other Fertilizers Order".

These regulations cover the following equipment for on-highway use.

1. anhydrous ammonia applicators;
2. dry spreader trailers;
3. self-propelled floaters; and
4. farm wagon type trailers.

Included in these regulations are:

1. Equipment requirements including
 - a) lights
 - b) signs
 - c) towing vehicle and brake requirements
 - d) tank mounting and securement devices
2. Vehicle operations including
 - a) speeds
 - b) hours of operation
 - c) tank operating capacity

For further information contact Vehicle Inspection Stations or Overload Control at 343-5139 in Red Deer.

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CARRIAGE OF LIVESTOCK

Under the provisions of the Livestock Brand Inspection Act, a farmer transporting his own livestock requires a Livestock Manifest, or in the case of market hogs, a Hog Manifest as prescribed by the Alberta Hog Producers' Marketing Board. These manifests are used to establish ownership.

The Bill of Lading and Conditions of Carriage Order under the Motor Transport Act specifies the conditions for transportation of livestock, and includes among others, the following:

1. vehicle requirements;
2. bedding requirements;
3. transportation requirements under extreme temperatures;
4. minimum floor space requirements; and
5. separation requirements for different species of livestock.

For further information contact Regulatory Services Branch, Alberta Agriculture at 427-5098.

ANIMAL PROTECTION ACT

This Act empowers a peace officer such as a Society for the Prevention of Cruelty to Animals (SPCA) constable, certain veterinarians and others listed under the Act to take action in the case of an animal in distress. Distress is intended to indicate those animals that have been injured, suffering malnutrition or other inhumane conditions. The peace officer can enter the premises where an animal is suspected to be in distress and can, under appropriate conditions, take the animal or animals into custody for their protection or where necessary cause the animal to be destroyed.

For further information contact your local SPCA or Director, Animal Health Division, Alberta Agriculture at 427-2166.

LIVESTOCK DISEASE ACT

Auction Market Inspection Regulations

All livestock offered for sale at livestock markets in Alberta is inspected for visible evidence of infectious disease or distress before sale. A veterinarian inspector may require infected animals to be returned to their premises of origin or in certain cases be sold for slaughter. The inspectors are also responsible for monitoring the standard of sanitation at livestock markets.

For further information please contact Head, Livestock Inspection, 422-3912 or Director, Animal Health Division, Alberta Agriculture at 427-2166.

Disposal of Dead Animals Regulations

The regulation requires that all dead animals be disposed of within 48 hours by either burying, burning, or transporting to a rendering plant where the animal will be treated in such a way as to kill any infectious organisms present.

For further information please contact Head of Epidemiology at 422-3912 or the Director of Animal Health Division at 427-2166.

Designated Diseases Regulation

This regulation requires veterinarians and owners to notify the Animal Health Division if any of their animals are infected by certain diseases. These are leptospirosis and salmonellosis, for cattle and swine, footrot and brucellosis for sheep, infectious laryngotracheitis and salmonellosis for poultry. Various advisory and control programs are in place for these diseases and are aimed at preventing spread to other animals or to humans.

For further information please contact the Epidemiology section at 422-3912 or the Director of Animal Health Division, Alberta Agriculture at 427-2166.

MEAT INSPECTION ACT

This Act requires all meat and meat products being offered for sale by any person to be inspected by either federal or provincial authorities. Inspection is provided at all registered abattoirs and packing plants in the province of Alberta. Farmers are entitled to slaughter their own animals on their own premises for their own use.

For further information please contact the head of Meat Hygiene Branch, Alberta Agriculture at 427-3456.

FEDERAL ANIMAL DISEASE AND PROTECTION ACT

This Act contains the provisions of the control of certain listed diseases that occur in Canada. They are controlled for the import and export of animals and animal products in order to prevent transmission of foreign animal diseases. As well there are regulations concerning various aspects of transportation of animals. The Act requires that an animal owner or veterinarian who suspects the presence of a reportable disease to report it to the nearest federal government district veterinarian.

For further information please contact Veterinarian Inspection Directorate, Agriculture Canada at 231-4301, Calgary, Alberta.

CRIMINAL CODE

Included in the code are laws related to the inhumane treatment of animals. Among other provisions there are ones that deal with inadequate provision of food, water and shelter. Contact the local RCMP or local SPCA.

Federal Food and Drug Act

Under this Act and its regulations there are provisions regarding the use of drugs and other chemicals in animal and other products intended for use as food. For example, there are regulations establishing how long a period of time must pass from the time the animal is given a drug until it can be slaughtered for food or when milk can be consumed from the dairy animal. There are also provisions that indicate the maximum acceptable amount of a drug or chemical residue present in food products. It is the responsibility of the producer to be sure that animals or crops sold for food do not contain drug or chemical residue.

For further information please contact Health Protection Branch, Health and Welfare Canada, Edmonton at 420-2626 or Health Protection Branch, Health and Welfare Canada, Calgary at 291-4650.

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BRAND ACT

A brand is a character or a combination of characters used for the purpose of denoting ownership of the stock bearing the brand. The holder of any property registered brand is offered protection by the Brand Inspection Service and the RCMP against loss that may occur from stray animals being offered for sale or those found being knowingly or unknowingly harbored by someone other than the owner. A properly recorded brand is prima facie proof that stock so branded is owned by the registered owner of that brand. The owner of a registered brand may apply an age brand consisting of one arabic numeral from 0 - 9 inclusive in the area from the shoulder to thigh of either cattle or horses on the same side as the recorded brand or an individual animal number brand to cattle consisting of one or more arabic numerals on the same side as the recorded brand. It costs \$5.00 to register a new brand for four years and \$2.00 for each subsequent four-year renewal. Brand ownership can be legally transferred only by recording such a transfer with the brand recorder at a cost of \$5.00. It is not compulsory to brand livestock in Alberta however it is unlawful to use an unregistered brand or a brand on which registration has expired. It is also illegal to alter, deface or destroy any brand. Branding is one of the earliest forms of the identification of livestock. A well applied brand to the animal will ensure the animal will wear the brand all its life.

For further information regarding brands and branding, contact the Livestock Inspection Offices throughout the province or the Animal Industry Division of Alberta Agriculture at 427-5098.

LIVESTOCK BRAND INSPECTION ACT

Requirement of livestock manifests

No livestock may be transported or driven on foot within Alberta unless the livestock is accompanied by a livestock manifest. The livestock may not be transported or driven from Alberta to any other place unless the livestock is accompanied by a permit issued by an inspector. The operator of a vehicle or driver of the livestock shall deliver each shipment of livestock to the person to whom the livestock is consigned as indicated on the livestock manifest unless accompanied by the owner of the livestock or by a person appointed in writing to act as his agent, then he may deliver the livestock to a person other than the person to whom the livestock is consigned if authorized by the owner or agent.

Where livestock manifests are not required

No livestock manifests are required for livestock which are transported or driven on foot to a veterinary clinic or to a destination which is not more than 15 km in distance and which is other than community pasture, forest reserves, feedlot or market. Any person who consistently transports one or more saddle horses between any two points within Alberta whether on foot or by vehicle may do so if he possesses a certificate in the prescribed form issued by an inspector; no manifest is then necessary.

Preparation and delivery of manifests

Where livestock is to be transported by a vehicle or is to be driven on foot, a livestock manifest in the prescribed form shall be fully completed in quadruplicate by the owner of the livestock or his agent at the time the livestock is delivered to the vehicle operator or the driver of the livestock. The vehicle operator or the driver of the livestock shall complete the remaining portion of the livestock manifest and shall retain the original copy of the livestock manifest; deliver the first carbon copy with the livestock for brand inspection purposes; deliver the second carbon copy with the livestock to the consignee. The third carbon copy shall be retained by the owner of the livestock for his records.

Proof of ownership

Any person who delivers livestock to a public sale, market or feedlot shall describe the brand on each head of livestock for each lot of livestock on a livestock manifest before delivering the said livestock. The individual must furnish to the inspector all information concerning the brand and bills of sale necessary to establish ownership of the livestock and any other information which the inspector requires in the course of his duties. When a person fails to comply with the above an inspector may cause the livestock to be placed under seizure in locked pens at the expense of the contributor until he does apply.

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Return of livestock to the owner

When an inspector determines that the livestock is owned by a person other than the contributor, the owner may demand the livestock be returned and the contributor be responsible for all expenses occasioned by the return to such a place as the inspector may direct.

Should you require further information please contact a local brand inspector.

THE STRAY ANIMALS ACT

No person shall permit or allow any livestock owned by him or in his possession to trespass on land owned by another person or be on a highway as defined in the Highway Traffic Act unless it is in his or another person's direct and continuous charge and he or that other person is competent to control the livestock.

Liability for Trespassing Livestock

Where livestock trespass and damage is done to land or any other agricultural product by the livestock or by any other person in capturing the livestock and the expenses are reasonably incurred in capturing, maintaining and transporting the livestock and in ascertaining the owner or last possessor of the livestock, the owner or last processor of the livestock are jointly and severally liable for the damage or expense or both.

Exemption from Liability

A person is not liable for any damage or expense which is due wholly to the fault of a person suffering the damage however the damage or expense shall not be treated as due to the fault of the person suffering it by reason only that he could have prevented it by fencing his land.

Liability for Opening and Not Closing Gates

Any person who opens and fails to close a gate or tampers with, damages or destroys a gate or fence as a result of which livestock escape is liable to the owner of the livestock for any damages done to the land or any agricultural products by the livestock or by any person in capturing the livestock or any expenses reasonably incurred in capturing, maintaining and transporting the livestock and in ascertaining the owner or last person in possession of the livestock. Where an owner, occupier or person on his behalf captures livestock trespassing on his land, he shall within 48 hours of the time that the livestock is confined complete a statement of capture and expenses incurred therewith and send it to the inspector.

Entry on Land

An inspector may enter on any land or premises without the consent of the owner or occupier thereof for the purpose of capturing trespassing livestock and removing them from the land or premises.

Right to Kill Dogs

The owner or the person in actual possession of livestock or domestic fowl or any person authorized by either of them may kill a dog in the act of pursuing, worrying or destroying that livestock or domestic fowl on land owned or occupied by the owner or person in actual possession of livestock or domestic fowl.

Order to Kill Dogs

Where a person believes that any other person owns or has in his possession a dog which within one month of the date of his application has worried, injured or destroyed livestock or domestic fowl outside of land occupied by the owner or person in possession of the dog, he may apply to a provincial judge for an order that the dog be killed. Where the provincial judge finds that a dog has within one month of the date of the application worried, injured or destroyed livestock or domestic fowl outside of land occupied by the owner or person in possession of the dog, the provincial judge may order the dog to be killed or to make such order as to him appears appropriate under the circumstances. The above has been provided for information only. The original Act and regulations should be consulted for all purposes of interpreting and applying the law.

Should you require further information please contact your local brand inspector or RCMP.

FOR INFORMATION PURPOSES ONLY

LINE FENCE ACT

- 1) Whenever two true owners or occupiers of adjoining parcels of land desire to erect a line or boundary fence between the adjoining parcels for the common advantage of both of them, they shall bear the expense of the erection, maintenance and repair of the fence in equal shares.
- 2) Whenever the owner or occupier of a parcel of land erects a line or boundary fence between the land and an adjoining parcel of land, the owner or occupier of the adjoining parcel of land shall, as soon as he receives any benefit or advantage from the line or boundary fence by the enclosure of his land or any portion thereof or otherwise, pay to the first mentioned owner or occupier as first portion of the then value of the line or boundary fence and thereafter the expense of maintaining and repairing the fence shall be borne by the adjoining owners or occupiers in equal shares.

Trespassing

There are many different areas of the law which deal with trespassing and other related matters. In fact, it is very difficult and confusing to know exactly what your property rights are and what rights are being infringed upon when a trespasser comes on to private property. There even exists statutes which entitle certain individuals to trespass on private property with the full sanction of the law. Some examples of this are an Alberta land surveyor and his authorized assistants, a police officer with a proper search warrant or other authorization and a sheriff acting under an order of the court. The following is a brief description of major areas of the law which deal with trespassing but this article is only intended to provide an overview of the different laws so that an individual will have an idea of where to begin to look to see if his or her property rights have been infringed upon and what can be done about it.

CRIMINAL CODE

Divisions of the Canadian Criminal Code deal with the offence of trespassing in several instances. For example, there is one provision of the code which deals with persons who "loiter or prowl at night upon the property of another person near a dwelling house situated on that property." Usually no more force than is necessary can be used against the trespasser. The Criminal Code describes the situation with respect to self defence against the trespasser. The Criminal Code further describes the defence against the trespasser. The Criminal Code further describes the situation in which an arrest can be made by any person without a warrant. There may or may not be civil liability following on an individual who makes a false arrest.

CIVIL LIABILITY

Trespassing can be an offence in civil law where charges are awarded for any injuries that are sustained to property. Trespassing can generally be defined as "an unlawful act or lawful act in an unlawful manner to injure another's property". There are several areas in civil law whereby an individual can be found liable for monetary damages due to trespassing.

- a) Common law - in common law there lies an action against a trespasser for damages to an owner and / or possessor of land who has suffered directly from the actions of a trespasser. If a trespasser has directly injured somebody's property, that person can sue the trespasser to recover the damages, to restore him to his original financial position or as nearly as possible at the time that the trespass was committed. If an individual is concerned about whether or not he has a legal right to sue a trespasser or whether or not he will succeed, proper consultation with a lawyer is advised.
- b) 'Petty Trespass Act' - in Alberta there exists the statute known as the Petty Trespass Act of Alberta which basically states that a trespasser could be fined for trespassing on land that is properly posted with signs according to the provisions of the Act. The Act stipulates among other things how much the fine will be, who shall bring the charges and to whom the Act applies.
- c) 'The Wildlife Act' - The Wildlife Act of Alberta is a Provincial Statute which deals with the right of individuals to hunt on occupied land without the consent of the owner or occupant. The Act as it currently reads does not require that a property be posted with signs. The Act is generally the area of the law that deals with hunters as trespassers but hunters are also subject to all of the other trespass laws which exist.

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What you can and cannot do to a person who is on your property.

- a) **Occupier's Liability** - The Occupier's Liability Act of Alberta is a Provincial Statute which classifies the individual coming on to property into three categories: a trespasser, a visitor and a child. The Act basically states among other things that a duty of care exists for the well-being of a person who comes on to your property, and this duty of care varies in degree with the category of individual that is involved.

How to protect yourself against liability.

There are various ways in which individuals have sought to avoid being found liable under the occupier's liability act, most of which are not fail proof. An individual considering the use of such things as waiver forms, warning signs like beware of dog, liability insurance or supervision should undertake to obtain the proper counselling before doing so. Failure to do so may place an individual in a great financial risk, for example, the keeping of a dog that is known to be dangerous may result in liability under the Dangerous Dog Act of Alberta. In summary, the areas of the law described above are just some of the laws that deal with trespassing. This article only describes what those areas are. In the event that an individual experiences any problems with regards to trespassing, he or she should seek proper legal assistance.

For further information please contact Alberta Agriculture's extension solicitor at 427-2402 in Edmonton or 320-4131 in Lethbridge.

FIREARMS INFORMATION

You need a firearms acquisition certificate before you take possession of a gun whether you plan to buy, borrow or trade to obtain it. The firearms acquisition certificate is a part of the firearms law passed in 1977 by the parliament of Canada to prevent criminals and mentally unfit people from having guns and to promote the safe use of guns. Your firearms acquisition certificate will cost \$10.00 and will allow you to obtain any number of guns anywhere in Canada for a period of five years. You do not need a firearms acquisition certificate for guns you already own or to purchase ammunition.

Firearms acquisition certificates are issued free to those who hunt or trap as a way of life. The majority of gun users will have no problem in getting a certificate however police will refuse to issue a certificate to those prohibited from owning a gun by court order and to those under the age of 16. Police can also refuse people who have been convicted of violent crimes or offences under the gun laws during the past five years or to those who have serious mental disorders associated with violence. Provinces may also ask for proof of your ability to handle a gun safely. Application forms which must be submitted to police are available at your firearms dealer or from local police. Minor's permits are available to allow those under 16 to use firearms except for restricted weapons. Such use is also subject to provincial legislation and allows them to use a gun under supervision for target practice or instruction in use of firearms. A minor who hunts or traps to sustain his family may obtain a minor's permit to use a gun without supervision. All minor's permits are issued free of charge. Do not confuse the firearms acquisition certificate with the restrictive registration certificate. If the firearm you plan to obtain is a restricted weapon, then you must obtain a restricted weapon registration certificate in addition to the firearms acquisition certificate. You must also acquire permits to use, carry or transport such a firearm. The firearms acquisition certificate is **not** a registration certificate.

Offences related to certificates and permits are:

- a) False statements made for the purpose of procuring a certificate or permit.
- b) Altering, defacing, falsifying a firearms acquisition certificate, registration certificate or permit.
- c) Failure to comply with conditions of the permit.
- d) Failure to deliver up a fire acquisitions certificate registration certificate or permit after suspension, revocation or prohibition.

FOR INFORMATION PURPOSES ONLY

Offences related to the use and possession of firearms and other offensive weapons are:

- a) Pointing a firearm loaded or unloaded at another person without lawful excuse. Fine or imprisonment up to five years.
- b) Use, carriage, transport, shipping or handling of either firearm, or ammunition in a careless manner without reasonable precautions or concern for the safety of others. Fine or imprisonment up to five years.
- c) Carrying a weapon or imitation for a dangerous purpose or for the purpose of committing an offence. (Up to 10 years imprisonment.)
- d) Carrying a concealed weapon without a permit. Fine or imprisonment up to five years.
- e) Possession of a prohibited weapon. Fine or imprisonment up to five years.
- f) Occupying a motor vehicle in which a prohibited weapon is carried with the knowledge of the occupant. Fine or imprisonment up to five years.
- g) Possession of an unregistered restricted weapon, e.g. handgun. Fine or imprisonment up to five years.
- h) Possession of a restricted weapon elsewhere than at the location authorized without lawful excuse. Fine or imprisonment up to five years.
- i) Possession of an offensive weapon while attending or on the way to attending a public meeting. Fine or imprisonment up to two years.

Offences related to the sale, delivery or acquisition of firearms and other offensive weapons are:

- a) Giving or lending, transferring or delivering any firearm to a person under the age of 16 years who is not a holder of a permit under which he may lawfully possess a firearm unless such use is under immediate supervision of a person lawfully in possession of a firearm. Fine or imprisonment up to two years.
- b) Selling, giving or lending any firearm or other offensive weapon or ammunition or explosive substance to a person known or believed to be of unsound mind, impaired by alcohol or drugs, or prohibited by law from possessing the same. Fine or imprisonment up to five years.
- c) Importing, buying, selling, bartering, giving, lending, transferring or delivering prohibited weapons or parts used in their manufacture. Fine or imprisonment up to five years.
- d) Selling or lending restrictive weapons, e.g. handguns to a person not authorized to possess such weapons. Fine or imprisonment up to five years.
- e) Selling, giving, or lending any firearm to a person not producing a firearms acquisition certificate. Fine or imprisonment up to two years.
- f) Acquiring a firearm without a firearms acquisition certificate. Fine or imprisonment up to two years.
- g) Possession of a firearm, offensive weapon or explosive substance while prohibited by order. Fine or imprisonment up to five years.

Found, lost, mislaid, stolen or defaced firearms and other weapons.

- a) Failure to report to police a lost or stolen firearm within reasonable period of time. Fine or imprisonment up to five years.
- b) Possessing any firearm without lawful excuse knowing that the serial number had been altered, defaced, or removed or to alter, deface or remove a serial number from any firearm. Fine or imprisonment up to five years.

For further information please contact your local police.

FOR INFORMATION PURPOSES ONLY

AGRICULTURAL CHEMICALS ACT

When employing a custom pesticide applicator, a farmer should ask to see an Alberta Pesticide Applicator's License. Farmers need not be licensed to apply pesticides on land under their control or neighboring lands if no fee is charged for the service. Farmers require permits to treat farm-stored grain with phosgene gas for insect control. Pesticide spills must be reported to Pollution Control Division of Alberta Environment. Farmers can dispose of empty pesticide containers at collection sites operated by the municipality. Information regarding pesticide regulations is available from regional offices of the Pesticide Chemical Branch. In Grande Prairie phone 539-2460, in Calgary phone 261-8279, in Edmonton phone 427-5855 or in Lethbridge phone 329-5511.

WEED CONTROL ACT

Purpose:

The Weed Control Act is designed to protect the productivity of agricultural land by preventing the establishment and spread of weed plant species. It recognizes that all weeds do not present the same degree of threat and receive different approaches. Weeds are categorized as restrictive, non-restrictive and nuisance. The Act provides for the elevation of the weed in a particular municipality to a higher category should more stringent action be required.

Administration:

The Act is provincial legislation that is administered by the municipal-appointed weed inspectors. Inspectors have the power to enter on to land, to issue notices, to remedy weed problems, to prohibit the growing of certain crops on infested land and to take corrective action if non-compliance of the notices occurs.

The responsibility of the landowner:

The landowner is ultimately responsible for weed control for any parcel of land whether that landowner is a private citizen or the Crown. However if the land is rented, leased, or otherwise occupied, notices can be served on the occupant. A municipality is considered the occupant of a highway under its control but may by a by-law provide that the adjacent landowner assume responsibility for weed control to the centre line of the road.

For further information please contact Weed Control Section, Alberta Agriculture at 427-4329.

PEST CONTROL PRODUCTS ACT

The Pest Control Products (PCP) Act is enforced by the Agriculture Canada offices in Edmonton and Ottawa. According to this Act no person shall use a pesticide in a manner that is hazardous to human health or to the environment. Agriculture Canada inspectors can charge violators of this Act. In order to ensure the safe use of pesticides, the PCP Act dictates that pesticide users read the pesticide label before using any product. The Act specifies that the label contain information on the hazards of pesticides to humans, birds, fish and bees. Directions for effective use of the product precautions the user to prevent injuries to plants or humans as well as first aid measures in case of injury to humans. Anyone using the pesticide in a manner that is inconsistent with the direction on the label is doing so in an unsafe manner and is violating the Act. Manufacturers can also be charged with being in violation of the PCP Act if the guaranteed active ingredients as well as the packaged contents are above or below those stated on the label, otherwise the manufacturer is not responsible for the damage to persons or property arising from these products. The buyer assumes those risks at the time of purchase of the product. Violators of the PCP Act are guilty of an indictable offence and are liable to imprisonment for two years or are guilty of an offence punishable by summary conviction.

FOR INFORMATION PURPOSES ONLY

AGRICULTURAL PESTS ACT

Pests or nuisances in Alberta may be insect, bird or any animal, plant or a disease which is damaging to any crop, livestock or property. For the purpose of controlling, destroying or delaying the establishment of a pest or nuisance, regulations may be drawn up. These regulations may stop the movement of material, declare control areas and govern the use of methods to control the pest or nuisance throughout Alberta or in a part of Alberta as described in the regulation and is designed for the protection and benefit of the landowner.

Bacterial ringrot of potatoes, fireblight, dutch elm disease, the Norway rat, grasshoppers, and the warble fly are six named pests under the Agricultural Pests Act in Alberta. Declared nuisances in Alberta or that part of Alberta described by the regulation are the coyote, magpie and skunk. It is the responsibility of a person who owns, occupies or controls land premises or other property in active measures to destroy a named pest in accordance with the Agricultural Pests Act.

In the case of a declared pest an officer may enter on land or premises where he has reason to believe such a pest exists and investigate, inspect and take specimens of them when feasible. He / she will direct what measures must be taken for the prevention of the establishment or destruction of this pest. For example, if the presence of bacterial ringrot in potatoes has been confirmed, the owner must comply with several measures developed in order to reduce the spread of the infestation. Such measures may include sprout inhibiting of all potatoes growing on the premises, disinfecting machinery used in the production of those potatoes and making imported seed potatoes accessible for inspection by an office. Bacterial ringrot infested potatoes may be impounded by an officer and the said potatoes cannot be sold or moved without written permission.

In 1951 the Norway rat was officially designated a pest. As a result it is the legal responsibility of every Albertan to prevent the establishment of and destroy all Norway rats on land or premises owned or occupied by the said individuals. Every year up to 1,000 rats invade the province at 75 to 100 infestation sites from Montana to Cold Lake, Alberta where they are destroyed by pest control officers keeping the province rat free.

The coyote, once named a pest under the Act, obligated the landowner to destroy this pest on his property. Recently it has been declared a nuisance animal and the individual may control it on his land if he so desires.

LITTER ACT

Litter is any kind of refuse, rubbish, manure or whole or any part of animal carcass. Feeding and watering livestock usually creates a build-up of litter. This practice may result in an order being issued to cease and clean up the litter or the offence is punishable on summary conviction. Property when viewed from a highway that is considered to be unsightly because of litter thereof may become subject to a "clean-up" order.

Information pertaining to the Litter Act may be obtained from Alberta Environment at 427-5868.

WATER RESOURCES ACT

Doctrine of riparian right has been modified substantially by legislation and the Water Resources Act takes precedent over riparian rights.

DIVERSION OF WATER

Right to Water

In the province of Alberta the property in and the right to the diversion and the use of all water is vested in the Crown. However if a person owns or occupies

- 1) land that adjoins a river, stream, lake, watercourse or other body of water, or
- 2) land under which ground water exists

he may use as much of that water as he requires for domestic purposes on that land without having to obtain a licence or permit. He may pump or otherwise convey water to fill a tank, cistern, trough or dugout without a permit or licence.

FOR INFORMATION PURPOSES ONLY

Prohibitions

- 5 (1) No person shall
- (a) divert or use any water,
 - (b) construct or cause to be constructed any works for the diversion of water or which are or may be or may become capable of diverting water,
 - (c) operate or use any works for the diversion of water,
 - (d) lay, place or erect in, over, under, on or adjacent to any water any structure, device, contrivance or thing, or any earth, sand, gravel or other material, which interferes with or is capable of interfering with the present or future development, conservation, or management of water or
 - (e) remove or disturb any earth, sand, gravel or other material forming part of the bed, shore or banks of any water, if the removal or disturbance interferes with or is capable of interfering with the present or future development, conservation or management of water,

except under the authority of this Act, the regulations or a licence, interim licence of permit issued under this Act.

- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) Each day or portion thereof that a person contravenes subsection (1) shall be deemed to be a separate offence.
- (4) A prosecution for a contravention of subsection (1) may be commenced within three years after the commission of the offence, but not afterwards.

Rights to divert or use water

- 9 No right to the permanent diversion or to the exclusive use of any water shall be acquired by any riparian owner or any other person
- (a) by length of use, or
 - (b) otherwise than in accordance with this Act or the regulations, unless that right is acquired by a grant made pursuant to a valid agreement or undertaking existing on April 1, 1931.

Licence or permit

- 11 (1) On application being made as provided in this Act and the regulations, a person may acquire, subject to any valid and subsisting rights,
- (a) A licence to divert and use water for any use or all of the following purposes:
 - (i) domestic purposes;
 - (ii) municipal purposes;
 - (iii) irrigation and other agricultural purposes;
 - (iv) industrial purposes;
 - (v) water power purposes;
 - (vi) other like purposes;

- (b) a licence to impound water for the purpose of water management, flood control, erosion control, flow regulation, conservation, recreation or the propagation of fish or wildlife or for any like purpose;
- (c) a licence to use water in its natural state for the purpose of conservation, recreation or the propagation of fish or wildlife or for any like purposes;
- (d) a licence to divert water, otherwise than by impoundment or storage, for the purpose of water management, flood control, drainage, erosion control or channel re-alignment or for any like purposes;
- (e) a permit
 - (i) To lay, place, build or erect in, over, under, on or adjacent to any water any structure, device, contrivance or thing, or any earth, sand, gravel or other material, which will interfere with or will be capable of interfering with the present or future development, conservation or management of that water, or
 - (ii) to remove or disturb any earth, sand, gravel or other material forming part of the bed, shore or banks of any water, where the removal or disturbance will interfere with or will be capable of interfering with the present or future development, conservation or management of water.

PUBLIC HIGHWAYS DEVELOPMENT ACT 1980

Sec. 39 - Transportation have the right to dispose of water within the road area.

- If such disposition causes damages to the owner of land in the vicinity of the highway, then the owner may recover damages from the Crown.

- Notice in writing regarding the claim and of the injuries must be served by registered letter to the Minister of Transportation within one month of the happening.

Public Highways Development Act Regulation 163 / 70, 352 / 79

Sec. 5 (c) The Construction of a drainage ditch within 30 metres of boundary or 60 metres of the centreline of the roadway whichever is greater, without a permit is prohibited.

Municipal Government Act

Sec. 188 - provides the legislation necessary for municipalities to make adequate provision for drainage of a roadway in such a manner as to prevent the flooding of other land.

- provides an avenue of appeal for a person who owns land in the vicinity of the roadway and who claims that default has been made by the municipality.

- the time period for complaints is within 60 days after the day on which the cause of the complaint arose but within two years from the date the alleged default occurred.

For further information about the Water Resources Act, contact Water Resources Administration Division, Regional Services, Alberta Environment - 427-6168.

FOR INFORMATION PURPOSES ONLY

LANDLORD AND TENANT ACT

Interested in landlord or tenant issues? Alberta Consumer and Corporate Affairs tipsheet **The Landlord and Tenant Act** can help you understand your legal rights and responsibilities. This publication explains your rights and duties as a renter or a landlord. It mentions residential tenancy agreements, outlines your legal rights when disagreements come up, and warns about penalties for not obeying the Act. Information is also given about security deposits, rent increases, abandoned goods, locks and security devices.

The **Renting A Mobile Home Site** tipsheet outlines the **Mobile Home Sites Tenancy Act**. It gives information about what to do if your mobile home site is not available when it is supposed to be. It tells you what to do if a tenant does not leave the site at the end of the tenancy agreement. Also, this publication advises you on what to do about an abandoned mobile home. In addition, this tipsheet includes most of the information mentioned in the **Landlord and Tenant Act** tipsheet.

For consumer complaints or questions contact the nearest office of Alberta and Corporate Affairs at the following locations:

Calgary 253-0909
Edmonton 427-5782
Fort McMurray 743-7231
Lethbridge 329-5360
Peace River 624-6214
Red Deer 343-5241